IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Title: ADJUSTABLE FENCE RAIL SUPPORTING AND POSITIONING ASSEMBLY AND METHOD FOR USING THE ASSEMBLY

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INFORMATION DISCLOSURE STATEMENT PURSUANT TO 37 CFR 1.97 AND 37 CFR 1.98

Mail Stop Patent Application
Commissioner for Patents
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The attached patents and published applications cited on Form PTO/SB/08A are deemed relevant to the above-captioned application:

1. **Application No. 2002/0179893** discloses a fence bracket for use with a t-post, the bracket having: (1) an angled and relatively flat top plate with an aperture adapted to fit over the top of a t-post, (2) a relatively flat second plate, and (3) an angled and relatively flat bottom plate with a notch at a bottom edge to engage a protrusion of the t-post. The bracket fits over the top of the t-post.

The present invention requires neither the top plate with aperture adapted to fit over the top of a t-post nor the bottom plate with a notch at a bottom edge to engage t-post protrusions of the invention disclosed by Application No. 2002/0179893. Neither is the assembly of the present invention required to be fit over a t-post nor limited in its use to engagement with t-post type fence posts like the invention disclosed by Application No. 2002/0179893. The present invention rather utilizes a fence rail supporting and positioning assembly not disclosed by Application No. 2002/0179893 which includes a distinctive slotted member containing a plurality of uniformly-sized and uniformly-shaped slots spaced at regular, determined intervals along its length and a distinctive bracket member including (1) a handle, (2) a first slot-engaging portion detachably insertable into a first slot among the plurality of slots, (3) a second slot-engaging portion detachably insertable into a second slot among the plurality of slots while the first slot- engaging portion occupies the first slot, and (4) a fence rail contacting portion with a fence rail contacting surface. The bracket member may additionally include at least one ancillary fence rail support and engagement member not taught by Application No. 2002/0179893.

2. **Patent No. 5,360,191** discloses a bannister attachment for mounting a laterally extensible child safety gate. The banister attachment has a first mounting assembly engaging with an upper end of a banister post and a second mounting assembly engaging with a lower end of the banner post. Each of the assemblies is mounted on the bannister by (1) first removing a front end member of the assembly by unscrewing screws which connect a front end member of the assembly to the remainder thereof, (2) sliding the remainder of the assembly around a portion of the bannister post and (3) reattaching the front end member to the remainder of the assembly by reinstalling the screws which connect it to the remainder of the assembly.

The present invention requires neither the first mounting assembly nor the second mounting assembly of the invention disclosed by Patent No. 5,360,191 or the removable front end members thereof. The present invention rather utilizes a distinctive and adjustable fence rail supporting and positioning assembly not disclosed by Patent No. 5,360,191 which includes a distinctive slotted member containing a plurality of uniformly-sized and uniformly-shaped slots spaced at regular, determined intervals along its length and a distinctive bracket member including (1) a handle, (2) a first slot-engaging portion detachably insertable into a first slot among the plurality of slots, (3) a second slot-engaging portion detachably insertable into a second slot among the plurality of slots while the first slot- engaging portion occupies the first slot, and (4) a fence rail contacting portion with a fence rail contacting surface. In various embodiments, the bracket member may additionally include at least one ancillary fence rail support and engagement member not taught by Patent No. 5,360,191.

3. **Patent No. 4,923,176** discloses an adjustable fence connector assembly having a connector bracket with a vertical fence post receiving sleeve, at least one pair of vertically oriented, laterally extending side members projecting from at least a side of the sleeve and a swivel bracket. The vertical sleeve is slidingly lowered over the fence post to be engaged and is then held in place by a threaded fastener inserted through a threaded orifice in the vertical sleeve.

The present invention requires neither the vertical sleeve, the side members, the swivel bracket, the threaded fastener nor the threaded orifice of the assembly taught in Patent No. 4,923,176. Neither must the present invention be lowered or slid over the fence post to be engaged or be fastened thereto by a threaded lock bolt. The present invention instead utilizes a distinctive and adjustable fence rail supporting and positioning assembly not disclosed by Patent

No. 4,923,176 which includes a distinctive slotted member containing a plurality of uniformly-sized and uniformly-shaped slots spaced at regular, determined intervals along its length and a distinctive bracket member including (1) a handle, (2) a first slot-engaging portion detachably insertable into a first slot among the plurality of slots, (3) a second slot-engaging portion detachably insertable into a second slot among the plurality of slots while the first slot- engaging portion occupies the first slot, and (4) a fence rail contacting portion with a fence rail contacting surface. The bracket member may additionally include at least one ancillary fence rail support and engagement member not taught by Patent No. 4,923,176.

4. **Patent No. 4,150,907** discloses a stanchion connector assembly for effecting a butt joint connection between a tubular fixed stanchion member and a rail member. The connector assembly has (1) a fixed connector component with an arcuate inner face adapted to mate with the outer surface of the stanchion, (2) a parti-spherical outer face and a bore extending through from the inner to the outer face in a substantially radial direction, (3) a movable connector component adapted to be clamped against the outer face of the fixed component including an inwardly directed collar, (4) a concave clamp plate fixed to the collar, (5) an arcuate slot formed in the clamp plate, (6) a rail receiver shank fixed to the collar and adapted to receive and rigidly support the rail member, (7) a bolt member extending through the slot of the clamp plate and an aperture in the fixed component and threadedly engaging a portion of the stanchion, thereby clampingly engaging the inner face of the fixed member against the stanchion and the collar against the outer surface of the fixed member.

The present invention requires neither the fixed connector component with arcuate inner face, the parti-spherical outer face with radial bore, the movable connector component with

inwardly directed collar, the concave clamp plate fixed to the collar, the arcuate slot, the rail receiver shank fixed to the collar nor the bolt member of the assembly disclosed by Patent No. 4,150,907. The present invention instead utilizes a distinctive and adjustable fence rail supporting and positioning assembly not disclosed by Patent No. 4,150,907 which includes a distinctive slotted member containing a plurality of uniformly-sized and uniformly-shaped slots spaced at regular, determined intervals along its length and a distinctive bracket member including (1) a handle, (2) a first slot-engaging portion detachably insertable into a first slot among the plurality of slots, (3) a second slot-engaging portion detachably insertable into a second slot among the plurality of slots while the first slot- engaging portion occupies the first slot, and (4) a fence rail contacting portion with a fence rail contacting surface. The bracket member may additionally include at least one ancillary fence rail support and engagement member not taught by Patent No. 4,150,907.

5. **Patent No. 1,772,159** discloses a stair rail connection in which a spherical connecting member is disposed between balusters and hand rails to allow the angle of connection therebetween to be varied. By contrast, the present invention utilizes a distinctive and adjustable fence rail supporting and positioning assembly not disclosed by Patent No. 1,772,159 which includes a distinctive slotted member containing a plurality of uniformly-sized and uniformly-shaped slots spaced at regular, determined intervals along its length and a distinctive bracket member including (1) a handle, (2) a first slot-engaging portion detachably insertable into a first slot among the plurality of slots, (3) a second slot-engaging portion detachably insertable into a second slot among the plurality of slots while the first slot- engaging portion occupies the first slot, and (4) a fence rail contacting portion with a fence rail contacting surface. The bracket

member may additionally include at least one ancillary fence rail support and engagement member not taught by Patent No. 1,772,159.

CONCLUSION

Other distinguishing features of the present invention are specified herein as well as in the application, specification and drawings filed herewith. The novel combination of elements within the present invention functions to provide: (1) an assembly and method which facilitates rapid, efficient, sturdy, yet easily modifiable connection and positioning of a fence rail along a fence by even a relatively unskilled user at a user-selected, user-modifiable elevation and at an user-selected, user-modifiable angle; (2) an assembly wherein the elevation and angle of a fence rail positioned and supported along a fence can be easily modified without need of tools, additional fasteners and without damage to either the fence post or the fence rail connected thereto; and (3) an assembly and method which facilitate rapid and easy placement of fence rails in a configuration that allows optimum fence porosity.

The applicant is unaware of any other prior art relevant to the instant invention filed herewith. It is submitted that the claims of the above-captioned application patentably distinguish the present invention from each of these prior art references taken alone or in combination.

RESPECTFULLY SUBMITTED,

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